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HS-6583

**UNITED STATES DISTRICT COURT
FOR DISTRICT OF NEW JERSEY**

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PAUL ANTOGIOVANNI,

Case 3:16-cv-00483-PGS-TJB

Plaintiff,

Hon. Peter G. Sheridan, U.S.D.J.

-against-

MILLENNIUM HEALTHCARE, INC.,
Defendant.

**DECLARATION OF HENRY L. SAURBORN, JR.
IN SUPPORT OF REQUEST FOR CLERK'S
ENTRY OF DEFAULT AGAINST DEFENDANT
PURSUANT TO FED. R. CIV. P. 55(a)**

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Henry L. Saurborn, Jr., pursuant to 28 U.S.C. § 1746, declares the following:

1. I am an attorney admitted to practice in the State of New Jersey and before this Court, and also a member of Kaiser Saurborn & Mair, P.C., attorneys for plaintiff Paul Antogiovanni in the above-captioned action. I make this Declaration based on personal knowledge, as well as based on documents entered on this Court's docket, in support of Plaintiff's Request for the Clerk's Entry of Default against defendant Millennium Healthcare, Inc. ("Defendant"), pursuant to Fed. R. Civ. P. 55(a), because it has failed to answer or otherwise move to defend this action.

2. On January 27, 2016, I filed the Complaint in this action electronically (Document 1) and on January 28, 2016, the Clerk of Court issued a Summons (Document 2). Shortly thereafter, service on the Defendant was stayed by reason of the filing of an involuntary petition

of bankruptcy against it on February 8, 2016 in the United States Bankruptcy Court for the Eastern District of New York. Subsequently, this action was stayed pursuant to an order dated June 15, 2016 and entered on June 16, 2016 (Document 7).

3. On July 26, 2016, Hon. Robert E. Grossman, U.S.B.J. entered an order dismissing the involuntary bankruptcy case against the Defendant (Document 8-1) and on my application the Hon. Peter G. Sheridan, U.S.D.J. issued an order reopening this case and permitting it to proceed. (Document 9).

4. According to the Return of Service that I filed electronically on October 21, 2016 (Document 10), on October 17, 2016, the Defendant was served with a true copy of both the Summons and the Complaint through its registered agent in the State of Delaware, its state of incorporation. Plaintiff thus made proper service of the Summons and Complaint upon Defendant pursuant to Fed.R.Civ.P. 4(h) and 5(b)(2).

5. Pursuant to Fed.R.Civ P. 12(a)(2), Defendant was required to plead within twenty-one (21) days after the date it was served with the Summons and Complaint. Thus, the Defendant's responsive pleading or motion was due to be filed on or before November 7, 2016. To date, upon information and belief, the Defendant has filed no response to Plaintiff's Complaint or otherwise moved, nor have I or my client received anything from the Plaintiff or his counsel in response to the Complaint. Hence, the time in which the Defendant was required to answer or otherwise respond to the Counterclaim has expired, and no extension has been sought or granted.

6. Accordingly, pursuant to Fed.R.Civ.P. 55(a), the Clerk is required to enter the default of defendant for failure to answer, move, or otherwise plead in response to Plaintiff's Complaint.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on November 17, 2016

/s Henry L. Saurborn, Jr.
Henry L. Saurborn, Jr. (HS-6583)